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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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8 UNITED STATES OF AMERICA,

2:17-mj-1174-GWF

9 Plaintiff,

ORDER

10 vs.

11 DAVID HOWARD BABIT,

12 Defendant.

13 **ORDER**

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15 Based on the pending Stipulation of counsel, and good cause appearing
16 therefore, the Court finds that:

- 17 1. The Government needs additional time to produce relevant discovery to Defense
18 Counsel.
- 19 2. Defense Counsel needs additional time to review the discovery, conduct
20 additional investigation, and confer with the Defendant about how he would like
21 to proceed.
- 22 3. The parties agree to the continuance.
- 23 4. Defendant BABIT is incarcerated but does not object to the continuance.
- 24

1 5. Additionally, denial of this request for continuance could result in a miscarriage
2 of justice.

3 6. The additional time requested herein is not sought for purposes of delay, but to
4 allow for a potential pre-indictment resolution of the case.

5 7. The additional time requested by this stipulation, is allowed, with the
6 defendant's consent under the Federal Rules of Procedure 5.1(d).

7 8. This is the first request for a continuation of the preliminary hearing.

8 For all of the above-stated reasons, the ends of justice would best be served by a
9 continuance of the preliminary hearing date.

10 CONCLUSIONS OF LAW

11 The ends of justice served by granting said continuance outweigh the best
12 interest of the public and the defendants, since the failure to grant said continuance
13 would be likely to result in a miscarriage of justice, would deny the parties herein to
14 potentially resolve the case prior to indictment, and further would deny the parties
15 sufficient time and the opportunity within which to be able to effectively and
16 thoroughly prepare for the preliminary hearing, taking into account the exercise of due
17 diligence.

18 The continuance sought herein is allowed, with the defendants' consent,
19 pursuant to Federal Rules of Procedure 5.1(d).

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1 **ORDER**

2 IT IS THEREFORE ORDERED that the preliminary hearing currently
3 scheduled for December 29, 2017, at the hour of 4:00 pm, be vacated and continued to
4 February 27, 2018 at the hour of 4:00 p.m.

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6 DATED 27th day of December, 2017.

7 
8 THE HONORABLE GEORGE W. FOLEY
9 UNITED STATES MAGISTRATE JUDGE
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